IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6742 OF 2006

Shri Baban Dnyanoba Mahamane ..Petitioner

Vs.

Genu Shiva Shirawale & Ors. ..Respondents

Mr.Vikas Shivarkar for the petitioner

Mr.S.K.Chinchalikar, A.G.P. for the respondent nos.2 to 5

CORAM : A.P.DESHPANDE, J

DATED : 29TH NOVEMBER, 2006

P.C.:

1. The present petitioner is owner of land admeasuring 4 H 2 R. Aggrieved by the acquisition and with a view to seek withdrawal from acquisition of the land, the petitioner moved the application u.s.48 of the Land Acquisition Act, 1894. In the said proceedings pending on the file of the Divisional Commissioner, the stay order came to be granted by the Commissioner. However, it appears that subsequent to the acquisition, a portion of the land admeasuring 1h 2r came to be taken in

possession and allotted by the State authorities to one Mr.Genu Shiva Shirawale, project affected person. The matter was moved before the Commissioner on 22.5.06 with a view to seek modification of the order of stay, as it was reported to the Commissioner that the present petitioner is trying to interfere with the possession of Genu Shiva Shirawale over 1 h 21r of land. The Commissioner by the impugned order has modified the earlier stay order and the modification seems to have been made on agreement of parties. The modification is to the effect that the stay order shall continue in regard to the rest of the land, whereas the petitioner will not interfere with the possession of the land of Genu Shiva Shirawale over 1 H 2 R.

2. The learned counsel for the petitioner in the first place disputes the fact that the petitioner agreed for modification of the order as is referred to in the impugned order by the Additional Commissioner, Pune. If the petitioner wants to seek correction of the statement of fact contained in the impugned order, the petitioner

shall be free to approach the Addl.Commissioner by moving an appropriate application. It is next submitted that instead of deciding the main matter touching the withdrawal of acquisition, interim order is passed and then vacated and / or modified.

3. In the facts of the present case, I do not find it proper to interfere with the impugned order for the reasons that the Additional Commissioner could be directed to finally decide the case as expeditiously as possible and till then permitting the interim order to continue. The learned A.G.P. for the Appellate Court, Pune submits that it would be feasible for the Additional Commissioner to finally decide the matter within 3 months from today.

4. I do not interfere with the order of modification of stay dt.22.5.06. I direct the Addl.Commissioner to decide the main matter finally within a period of 3 months from today after due notice to the parties who are likely to be affected by the order of the Addl.Commissioner. The Petitioner is granted liberty to approach the

Addl.Commissioner by an appropriate application seeking to expunge the statement contained in the impugned order in regard to the petitioners agreement for modification of the said order. Writ Petition is summarily dismissed.

(SHRI A.P.DESHPANDE, J)